

REMARKS/ARGUMENTS

Upon entry of the instant amendment, claims 2 and 22 will be canceled without prejudice or disclaimer of the subject matter recited therein, and claims 1, 6-10 and 12-20 will be amended, whereby claims 1 and 3-21 will remain pending. Claims 1 and 21 are independent claims. Amongst the amendments to the claims, Applicants note that claim 14 has been amended to be directed to a composition, and claim 18 has been directed to a method of producing the drug complex of claim 1.

Reconsideration and allowance of the application are therefore respectfully requested.

Response to Formal Matters

Applicants express appreciation for the acknowledgment of the claim of priority as well as receipt of the certified copy of the priority application in this national stage application.

Applicants also express appreciation for the return of the initialed Forms PTO-1449, whereby the Examiner's consideration of Applicants' disclosure statements filed May 9, 2001, June 5, 2001 and January 24, 2002 is of record.

Applicants additionally express appreciation for the indication that the Sequence Listing has been approved and that the drawings are accepted.

In response to the objections to the Title of the Invention and the Abstract, by the present amendment the Title of the Invention and Abstract have been amended, whereby these objections should be withdrawn . If the Examiner desires any further amendments thereto, the Examiner is respectfully requested to contact the undersigned to discuss the same.

Still further, in response to the objection to the disclosure and claims, the disclosure and claims have been amended to include SEQ ID NOS. In this regard, Applicants note that the sequence identifiers are utilized in the application to represent the spacers or the spacer portions of compounds as compared to the whole compound.

Response To Rejection Under 35 U.S.C. 112, Second Paragraph

In response to the rejection of claim 10 under 35 U.S.C. 112, second paragraph, as being indefinite, Applicants respectfully submit the following.

By the amendment herein, claim 10 has been amended in the manner suggested by the Examiner. However, Applicants note that this amendment is merely being made to advance prosecution of the application as the claim should be considered to be definite prior to the present amendment. In this regard, the amendment should be considered to be for cosmetic purposes, and no estoppel should be associated therewith.

Accordingly, the 35 U.S.C. 112, second paragraph, rejection should be withdrawn.

Response To Indication Of Allowable Subject Matter, Obviousness-Type Double Patenting Rejection And Rejections Based Upon Prior Art

Applicants express appreciation for the indication that claim 21 is allowed, and that claims 2 and 6-8 are objected to as being dependent upon rejected claims, but are otherwise allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim.

By the amendment herein, claim 2 has been rewritten in independent from by amending claim 1 to include the subject matter from claim 2 therein. Moreover, by the present amendment, each of the claims is directly or indirectly dependent upon independent claim 1. Accordingly each of the pending claims should presently be in condition for allowance.

Thus, the obviousness-type double patenting rejection of claims 1, 3-5 and 14 under the judicially created doctrine of obviousness-type double patenting over claim 34 of copending Application No. 09/807,870 is no longer applicable and should be withdrawn.

Moreover, in order that the record is complete, Applicants note that a continuation of Application No. 09/807,870 has been filed on April 13, 2004 and has been awarded Application No. 10/822,661. Applicants are submitting a copy of this continuation application for the Examiner's consideration in an Information Disclosure Statement filed on even date with the response. If any fees are necessary for consideration of the continuation application, authorization is hereby provided to charge any required fee to Deposit Account No. 19-0089.

Additionally, the remaining rejections set forth in the Office Action, i.e., the rejections as listed below are no longer applicable and should be withdrawn:

- (a) Claims 1, 3-5, 9, 10, 14, 18 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 624,377.
- (b) Claims 18 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by D'Amico et al., U.S. Patent No. 6,368,598.
- (c) Claims 11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 624,377 and further in view of JP 06-87746.

(d) Claims 12, 13, 16, 17, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 624,377 and further in view of JP 06-87746, and further in view of WO 97/46260.

Applicants respectfully submit that the amendments herein are being made to advance prosecution of the application to issue, and are being made without expressing agreement and/or acquiescence with the rejections of record.

Applicants respectfully request withdrawal of the rejections of record, and an early mailing of the Notices of Allowance and Allowability.

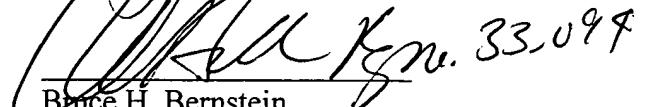
CONCLUSION

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the objections and rejections of record, and allow all the pending claims.

Allowance of the application is requested, with an early mailing of the Notices of Allowance and Allowability.

If the Examiner has any questions or wishes to further discuss this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,
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